

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

FEDERAL TRADE COMMISSION,)
)
)
Plaintiff,) Civil Action No. 3:20-cv-01979-M
)
)
v.)
)
NEORA, LLC, *et al.*,)
)
Defendants.)
)

)

**JOINT NUNC PRO TUNC MOTION TO DEEM THEIR RESPONSES TO
CROSS-MOTIONS FOR SUMMARY JUDGMENT AS TIMELY FILED**

Plaintiff Federal Trade Commission (“FTC”) and Defendants Neora, LLC and Jeffrey Olson (collectively, “Defendants”), jointly and respectfully move the Court to deem their respective responses to each other’s cross-motions for summary judgment timely filed. In support, the parties state as follows:

Motion

1. Pursuant to the Court’s scheduling order (Dkt. 38), as amended (Dkts. 120, 161, 187) the parties’ responses to dispositive motions were due on August 12, 2022.

FTC’s Filing

2. On August 12, 2022, the FTC timely filed its response brief and supporting appendix (Dkts. 197, 198) but inadvertently omitted its Local Rule 56.4 Response to Defendants’ Motion for Partial Summary Judgment (“MPSJ Response”) from the other responsive materials it timely filed.

3. On the morning of August 13, 2022, at 7:32 AM CDT, realizing its error, the FTC promptly filed the MPSJ Response (Dkt. 228).

4. The FTC's late filing of its MPSJ Response was an oversight and not meant to delay these proceedings or achieve any improper purpose.

Defendants' Filings

5. On August 12, 2022, Defendants timely filed their Local Rule 56.4 Response in Opposition to the FTC's Motion for Summary Judgment, objections to the FTC's summary judgment evidence, and portions of their supporting appendix. (Dkts. 203, 204, 206-216).

6. On August 13, 2022, Defendants continued filing the remaining portions of their supporting appendix, a notice of manual filing of appendix exhibits, and their brief in support of their opposition to the FTC's motion for summary judgment (Dkts. 217-225, 226, 227). Defendants' late filing of the foregoing materials was due to technical issues they encountered that delayed the filing of same, and was not meant to delay these proceedings or achieve any improper purpose.

Conclusion

WHEREFORE the parties respectfully request that the Court enter an order:

1. Deeming the FTC's MPSJ Response (Dkt. 228) timely filed nunc pro tunc; and
2. Deeming Defendants' appendix portions, notice of manual filing of appendix exhibits, and their brief in support of their opposition to the FTC's motion for summary judgment (Dkts. 217-225, 226, 227) timely filed nunc pro tunc.

Respectfully Submitted,

Dated: August 15, 2022

/s/ *Rachel F. Sifuentes* _____
KATHARINE ROLLER
GUY G. WARD
LISA W. BOHL
RACHEL F. SIFUENTES

SAMANTHA DENNY
Federal Trade Commission, Midwest Region
230 S. Dearborn, Suite 3030
Chicago, Illinois 60604
Tel: (312) 960-5612
Fax: (312) 960-5600
Email: rsifuentes@ftc.gov

**COUNSEL FOR PLAINTIFF
FEDERAL TRADE COMMISSION**

/s/ Michelle Y. Ku
Craig B. Florence
Texas Bar No. 07158010
cflorence@foley.com
Michelle Y. Ku
Texas Bar No. 24071452
mku@foley.com
FOLEY & LARDNER LLP
2021 McKinney, Suite 1600
Dallas, Texas 75201
Tel: 214.999.3000
Fax: 214.999.4667

Edward D. (“Ed”) Burbach
Texas Bar No. 03355250
eburbach@foley.com
Robert F. Johnson
Texas State Bar No. 10786400
rjohnson@foley.com
John Sepehri
Texas Bar No. 00797408
jsepehri@foley.com
FOLEY & LARDNER LLP
600 Congress Avenue, Suite 3000
Austin, TX 78701
Tel: 512.542. 7000
Fax: 512.542.7100

Jay N. Varon
District of Columbia Bar No. 236992
jvaron@foley.com
(admitted pro hac vice)
FOLEY & LARDNER LLP
3000 KSt. NW
Washington, DC 20007

Tel: 202.672.5300
Fax: 202.672.5399

**COUNSEL FOR DEFENDANTS
NEORA, LLC and JEFFREY OLSON**

CERTIFICATE OF CONFERENCE

Pursuant to Local Rule 7.1(a), the FTC certifies that its counsel conferred with Defendants' counsel by email on August 13, 2022 regarding this joint nunc pro tunc motion to have their submissions deemed timely filed, and the parties agreed they do not oppose each other's request for relief and agreed to submit a joint, agreed motion.

/s/ *Rachel F. Sifuentes*

Rachel F. Sifuentes